

CHAPTER 3: ADMINISTRATIVE AND DECISION-MAKING BODIES

3.1 PLANNING COMMISSION

3.1.1 COMMISSION MEMBERSHIP AND QUORUM

The Brian Head Planning Commission shall consist of five (5) members and one (1) alternate member. An alternate member shall serve in the absence of a regular member. Members shall be appointed by the Town Manager with the advice and consent of the Town Council. Members shall be residents of Brian Head Town, or annexation boundary area; own a business or work full time in Brian Head. Three (3) members of the five (5) shall be sufficient to constitute a quorum. A majority vote of its convened members is required to establish an action of the board.

3.1.2 LENGTH OF TERM

Each member shall be appointed for a term of five years. The terms of the members of the Commission shall be staggered such that the term of only one member shall expire in any calendar year. Terms shall expire on the thirty-first (31) day of December. Any vacancy occurring on the Commission, for whatever reason, shall be filled by appointment by the Town Manager with the advice and consent of the Town Council, for the unexpired term of such member.

3.1.3 ABSENCE AND REMOVAL

Any Planning Commission member (including an alternate member) who is absent from two (2) consecutive regularly scheduled Commission meetings, without good cause and without prior notice to the Chairman of the Planning Commission, Town Manager, or Commission Secretary shall be removed as provided for herein. The Town Manager with the advice and consent of the Town Council may remove a member of the Planning Commission for cause after filing written charges against the member. The member shall be provided with a hearing on the charges, if requested.

3.1.4 POWERS AND DUTIES

The Planning Commission shall have all necessary powers and shall undertake all duties as set forth in Title 10, Chapter 9a, Part 3, Utah Code Annotated, as amended, and as prescribed in the LMC.

3.1.5 CHAIR AND VICE-CHAIR

A Chairperson and Vice Chairperson shall be elected by the Planning Commission annually at the first meeting of each calendar year and shall be full voting members of the body.

3.1.6 STAFF

To assist the Planning Commission in carrying out its duties, the Planning Commission Chairman may request the assistance of other employees or agents of the Town of Brian Head through an appropriate request made to the Town Manager. The Town Manager shall appoint a qualified staff member to serve as Secretary to the Commission (Commission Secretary).

3.1.7 MEETINGS OF THE COMMISSION

All meetings of the Commission shall be in conformance with the Utah Open Meetings Law. The Commission shall keep an electronic recording of its proceedings showing the vote of each member upon each question, members absent, and members failing to vote. The Commission shall keep minutes of all meetings and proceedings. Minutes shall be filed with the Town Clerk by the Commission Secretary upon adoption by the Commission and shall then be made available to the public.

3.1.8 POLICIES AND PROCEDURES

The Planning Commission may adopt rules of policy and procedure consistent with this Chapter and State Law.

3.2 APPEAL AUTHORITY

3.2.1 ORGANIZATION

The Town hereby establishes an Appeal Authority pursuant to Section 10-9a-103(2) of the Utah Code Annotated, as amended, to hear requests for variances from the Town's land use Ordinances and appeals from decisions applying the Town's land use Ordinances. The Appeal Authority shall be an individual appointed by the Town Manager with the advice and consent of the Town Council. The Town Manager shall appoint a qualified staff member to serve as secretary to the Appeal Authority. The Town Manager, Town Planner, or Town Attorney must be present for the Appeal Authority to conduct business.

3.2.2 LENGTH OF TERM

The Appeal Authority shall be appointed for a term of five years. An Appeal Authority's term

expires on the thirty-first (31) of December. The Appeal Authority may be removed by the Town Manager with the advice and consent of the Town Council. Upon the expiration of an Appeal Authority's term, a new Appeal Authority shall be filled by appointment by the Town Manager with the advice and consent of the Council.

3.2.3 ABSENCE AND REMOVAL

The Appeal Authority may be removed by the Town Manager with the advice and consent of the Town Council.

3.2.4 MEETINGS OF THE APPEAL AUTHORITY

All meetings conducted by the Appeal Authority shall be in conformance with the Utah Open Meetings Law. The Appeal Authority shall keep an electronic recording of its appeals and its proceedings showing its decisions on each question, and a record of the Appeal Authority's examination of evidence and other official actions. The Appeal Authority shall keep minutes of all meetings and proceedings. Minutes shall be filed with the Town Clerk upon adoption by the Appeal Authority, and then shall be made available to the public. The Town Manager, Attorney or Planner must be present of any action to be taken by the Appeal Authority.

3.2.5 POLICIES AND PROCEDURES

The Appeal Authority may adopt rules of policy and procedure consistent with this Chapter and State law. The rules shall be submitted to the Town Council for approval and may be altered, amended, or changed in the same manner.

3.2.6 DUTIES AND POWERS OF THE APPEAL AUTHORITY

The Appeal Authority shall call meetings as needed and may administer oaths and compel the attendance of witnesses. The Appeal Authority shall hear and decide:

- a. appeals from final land use decisions applying the Town land use ordinances; and
- b. variances from the terms of the Town's land use ordinances.

3.2.7 APPEALS

Any person aggrieved by a final decision of the Zoning Administrator, Town Manager, Planning Commission, or any decision applying this Title may make an appeal to the Appeal Authority. All appeals shall be made according to the following procedures:

- a. The appeals shall be made within ten days of the action or decision being appealed by filing written Notice of Appeal with the Brian Head Town Clerk;
- b. The Notice of Appeal shall specify all grounds for the appeal and circumstances related

- thereto. Such notice shall set forth in detail the action and grounds upon which the applicant or other interested parties deem themselves aggrieved. A notice failing to specify grounds for appeal may be summarily dismissed by the Appeal Authority without prejudice;
- c. All documents and exhibits constituting the record upon which the action appealed was made shall be presented to the Town Clerk with the Notice of Appeal;
 - d. The Appeal Authority or Town Clerk shall set the date for the appeal hearing, to be held within a reasonable time from the day the appeal is received. Written notice of the date set for hearing the appeal shall be mailed to the applicant at least ten days before the appeal hearing date;
 - e. The filing of an appeal shall stay all proceedings and actions in furtherance of the matter appealed, pending decision of the Appeal Authority. The stay shall exist unless the Appeal Authority finds, after the Notice of Appeal has been filed, that the stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed, other than by an appropriate order issued by a court having jurisdiction.

3.2.8 SCOPE OF REVIEW

The Appeal Authority shall limit its review on appeal to the record upon which the original action was based, including but not limited to, the original application, written recommendations from Brian Head Town staff, minutes, letters, petitions, reports, or other technical data submitted by the applicant in furtherance of the application. The Appeal Authority's scope of review shall be limited to a determination as to whether the decision appealed from has a reasonable, factual basis apparent in the record.

The Appeal Authority shall allow the appealing party or designated representative and the decision-maker or representative, the opportunity to present appropriate oral argument with regard to the issue appealed. Such oral argument may be limited as appropriate by the Appeal Authority. The Appeal Authority shall not receive or consider any new evidence in the form of exhibits, affidavits, or testimony other than the oral argument provided under this Section.

3.2.9 ACTION TAKEN

After hearing the appeal, the Appeal Authority may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer or body from which the appeal is made. The Appeal Authority shall issue its decision in writing.

3.2.10 JUDICIAL REVIEW OF THE AUTHORITY'S DECISION – TIME LIMITATION

Any person aggrieved by any decision by the Appeal Authority may file an action for relief therefrom in any court of competent jurisdiction within thirty days after the filing of the decision

of the Appeal Authority with the Town Clerk.

3.3 BUILDING DEPARTMENT

3.3.1 AUTHORITY AND RESPONSIBILITY

The Brian Head Town Building Department shall have the authority to enforce, interpret, and administer this Title.

3.3.2 ORGANIZATION

The Building Official shall act as the Planning and Zoning Administrator for the Town of Brian Head. The Town Manager may undertake such responsibility if a Building Official has not been appointed. The Planning and Zoning Administrator may be assisted, when appropriate, by the Town Engineer, the Town Planner, the Director of Public Works, the Town Marshall, and other staff as required. Only the Planning and Zoning Administrator shall have the authority to bind the Building Department in those areas where the Building Department has the responsibility to interpret this Title.

3.3.3 PLANNING COMMISSION STAFF

The Planning and Zoning Administrator shall support and assist the Planning Commission in carrying out their duties under this Title.